

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

ROGER D. LAWSON,)
Plaintiff,)
v.)
LARRY CURN,)
Defendant.)
) Civil Action No. 7:22cv00069
)
)
)
)
MEMORANDUM OPINION
) By: Hon. Thomas T. Cullen
) United States District Judge

Plaintiff Roger D. Lawson, an inmate proceeding *pro se*, filed this civil action under 42 U.S.C. § 1983, against his criminal defense attorney. Lawson seeks leave to proceed *in forma pauperis* with this action. Having reviewed Lawson's complaint, the court grants his request to proceed *in forma pauperis* but concludes that Lawson fails to state a cognizable § 1983 claim against the defendant. Therefore, the court will dismiss Lawson's complaint under 28 U.S.C. § 1915(e)(2)(B)(ii).

Lawson alleges that his court-appointed attorney “let them charge [Lawson] with the wrong s[ocial] s[ecurity] n[umber].” (Compl. ¶ E [ECF No. 1].) As relief, Lawson seeks “[his] time.” (*Id.* ¶ F.)

To state a cause of action under § 1983, a plaintiff must allege facts indicating that he has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42 (1988). An attorney who defends a person against a criminal charge, whether retained or court-appointed, does not act under color of state law in his or her representation of that person. See *Polk Cnty. v. Dodson*, 454 U.S. 312, 317–24 (1981) (“A

lawyer representing a client is not, by virtue of being an officer of the court, a state actor ‘under color of state law’ within the meaning of § 1983.”); *Hall v. Quillen*, 631 F.2d 1154, 1155–56 & nn. 2–3 (4th Cir. 1980) (court-appointed attorney); *Deas v. Potts*, 547 F.2d 800 (4th Cir. 1976) (private attorney). Accordingly, Lawson cannot pursue this § 1983 action against his defense attorney and the court will dismiss Lawson’s complaint under § 1915(e)(2)(B)(ii).

The clerk is directed to forward a copy of this Memorandum Opinion and accompanying Order to Lawson.

ENTERED this 14th day of March, 2022.

/s/ Thomas T. Cullen
HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE